WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1970

ENROLLED

HOUSE BILL No. 10

(By Mr. Borum)

PASSED June 24, 1970
In Effect from Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 6-25-70
AN ACT to amend and reenact section nineteen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section three-a, all relating to the effect of rate changes in the gasoline tax on gasoline on hand or in inventory; and providing for payment of additional gasoline tax or refund of gasoline tax.

Be it enacted by the Legislature of West Virginia:

That section nineteen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said
ARTICLE 14. GASOLINE TAX.

§11-14-3a. Effect of rate changes; gasoline on hand or in inventory.

1 It is hereby declared to be the intent of the Legislature that one rate of excise tax be applicable to all quantities of gasoline in this state on and after the effective date of any change of rate, whether increasing or decreasing such rate, under the provisions of this article.

2 Any gasoline, on hand or in inventory, on the effective date of any rate change is hereby deemed to have been purchased or received on such date.

3 Every distributor, retail dealer or importer subject to the taxes imposed under the provisions of this article, who, on the effective date of any rate change, has on hand or in inventory any gasoline, upon which tax or any portion thereof has been previously paid and accrued, shall take a physical inventory and shall file a report thereof with the tax commissioner, in the form as prescribed by the tax commissioner, within thirty days thereafter, and shall pay to the tax commissioner at the
time of filing such report, any additional tax due under
an increased rate and shall be entitled to refund of tax,
under any decrease of rate, as provided in section nine-
teen of this article.

§11-14-19. Refund for gasoline exported, lost or from change
of rate.

Any distributor who shall export gasoline from West
Virginia to any other state or nation, may be refunded
a sum equal to the amount of such excise tax paid on
such gallonage upon application made on proper forms
to the tax commissioner within thirty days after the
close of the month in which such gasoline was exported.

Any distributor who shall in the conduct of his wholesale
gasoline business, sustain losses of gasoline by reason
of shrinkage or evaporation, which gasoline shall have
been included in the measure by which the excise tax
imposed by this article is determined, shall be refunded
a sum equal to the amount of such excise tax on the
gallonage lost, not to exceed one and one half of one
percent of the gallonage handled during that month
which has been previously included in the measure by
which the excise tax imposed by this article is deter-
Provided, That the tax commissioner shall cause refund to be made under authority of this section when application for refund, as herein provided, is filed with the tax commissioner within thirty days following the close of the month during which the gasoline was exported or lost, on forms prescribed by the tax commissioner, of the quantity of and full details concerning such gasoline exported or lost: Provided, however, That the tax commissioner may cause refund to be made on gasoline exported to another state or nation when such gasoline has been included in the measure of tax, and the tax has been erroneously paid to the state of West Virginia, when an application for refund of the excise tax is made within thirty days following the discovery of such erroneous payment and not more than two years after the date of such erroneous payment.

Every distributor shall be entitled to a refund from the state of West Virginia of the amount of gasoline tax paid by him, on any gasoline lost or destroyed, while he shall be the owner thereof, through fire, lightning, breakage or flood: Provided further, That such distributor
shall notify the tax commissioner in writing of such
loss or destruction, and the quantity of gasoline lost or
destroyed, within ten days after the date of discovery
of such loss or destruction: And provided further, That
within thirty days after the discovery of such loss or de-
struction, such distributor shall file with the tax com-
missioner an affidavit sworn to by him, setting forth in
full the circumstances and quantity of the loss or de-
struction, and such other information with respect thereto
as the tax commissioner may require.

Every distributor, retail dealer or importer shall be en-
titled to a refund from the state of West Virginia of the
amount resulting from a change of rate decreasing the
tax under the provisions of this article on gasoline on
hand and in inventory on the effective date of such rate
change, which gasoline shall have previously been in-
cluded in the measure by which the excise tax imposed
by this article is determined and previously paid by him:
Provided, That such distributor, retail dealer or importer
shall take a physical inventory, on the effective date of
such rate change and file a report with the tax commis-
vioner, in the form prescribed by the tax commissioner,
within thirty days after the effective date of the rate change.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tempoe
Chairman Senate Committee

Clayton E. Davidson
Chairman House Committee

Originated in the House.

Takes effect from passage.

James M. Evans
Clerk of the Senate

Blankenship
Clerk of the House of Delegates

Floyd M. Johnson
President of the Senate

June R. Benua
Speaker House of Delegates

The within [approved] this the 22nd

day of [June], 1970.

Arch A. Shane Jr.
Governor